

111TH CONGRESS
1ST SESSION

S. 734

To amend title 38, United States Code, to improve the capacity of the Department of Veterans Affairs to recruit and retain physicians in Health Professional Shortage Areas and to improve the provision of health care to veterans in rural areas, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2009

Mr. AKAKA (for himself, Mr. BAUCUS, and Mr. BEGICH) introduced the following bill; which was read twice and referred to

A BILL

To amend title 38, United States Code, to improve the capacity of the Department of Veterans Affairs to recruit and retain physicians in Health Professional Shortage Areas and to improve the provision of health care to veterans in rural areas, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Rural Veterans Health
5 Care Access and Quality Act of 2009”.

1 **SEC. 2. ENHANCEMENT OF DEPARTMENT OF VETERANS AF-**
2 **FAIRS EDUCATION DEBT REDUCTION PRO-**
3 **GRAM.**

4 (a) ENHANCED MAXIMUM ANNUAL AMOUNT.—Para-
5 graph (1) of section 7683(d) of title 38, United States
6 Code, is amended by striking “\$44,000” and all that fol-
7 lows through “fifth years of participation in the Program”
8 and inserting “the total amount of principle and interest
9 owed by the participant on loans referred to in subsection
10 (a)”.

11 (b) NOTICE TO POTENTIAL EMPLOYEES OF ELIGI-
12 BILITY AND SELECTION FOR PARTICIPATION.—Section
13 7682 of such title is amended by adding at the end the
14 following new subsection:

15 “(d) NOTICE TO POTENTIAL EMPLOYEES.—In each
16 offer of employment made by the Secretary to an indi-
17 vidual who, upon acceptance of such offer would be treated
18 as eligible to participate in the Education Debt Reduction
19 Program, the Secretary shall, to the maximum extent
20 practicable, include the following:

21 “(1) A notice that the individual will be treated
22 as eligible to participate in the Education Debt Re-
23 duction Program upon the individual’s acceptance of
24 such offer.

25 “(2) A notice of the determination of the Sec-
26 retary whether or not the individual will be selected

1 as a participant in the Education Debt Reduction
 2 Program as of the individual's acceptance of such
 3 offer.”.

4 (c) SELECTION OF EMPLOYEES WHO RECEIVE NO-
 5 TICE OF SELECTION WITH EMPLOYMENT OFFER.—Sec-
 6 tion 7683 of such title is further amended by adding at
 7 the end the following new subsection:

8 “(e) SELECTION OF PARTICIPANTS.—(1) The Sec-
 9 retary shall select for participation in the Education Debt
 10 Reduction Program each individual eligible for participa-
 11 tion in the Education Debt Reduction Program who—

12 “(A) the Secretary provided notice with an offer
 13 of employment under section 7682(d) of this title
 14 that indicated the individual would, upon the individ-
 15 ual's acceptance of such offer of employment, be—

16 “(i) eligible to participate in the Education
 17 Debt Reduction Program; and

18 “(ii) selected to participate in the Edu-
 19 cation Debt Reduction Program; and

20 “(B) accepts such offer of employment.

21 “(2) The Secretary may select for participation in the
 22 Education Debt Reduction Program an individual eligible
 23 for participation in the Education Debt Reduction Pro-
 24 gram who is not described by subparagraphs (A) and (B)
 25 of paragraph (1).”.

1 **SEC. 3. INCLUSION OF DEPARTMENT OF VETERANS AF-**
 2 **FAIRS FACILITIES IN LIST OF FACILITIES ELI-**
 3 **GIBLE FOR ASSIGNMENT OF PARTICIPANTS**
 4 **IN NATIONAL HEALTH SERVICE CORPS**
 5 **SCHOLARSHIP PROGRAM.**

6 The Secretary of Veterans Affairs shall transfer
 7 \$20,000,000 from accounts of the Veterans Health Ad-
 8 ministration to the Secretary of Health and Human Serv-
 9 ices to include facilities of the Department of Veterans Af-
 10 fairs in the list maintained by the Health Resources and
 11 Services Administration of facilities eligible for assignment
 12 of participants in the National Health Service Corps
 13 Scholarship Program.

14 **SEC. 4. OFFICE OF RURAL HEALTH FIVE-YEAR STRATEGIC**
 15 **PLAN.**

16 (a) STRATEGIC PLAN.—Not later than 180 days after
 17 the date of the enactment of this Act, the Director of the
 18 Office of Rural Health of the Department of Veterans Af-
 19 fairs shall develop a five-year strategic plan for the Office
 20 of Rural Health.

21 (b) CONTENTS.—The plan required by subsection (a)
 22 shall include the following:

23 (1) Specific goals for the recruitment and reten-
 24 tion of health care personnel in rural areas, devel-
 25 oped in conjunction with the Director of the Health

1 Care Retention and Recruitment Office of the De-
 2 partment of Veterans Affairs.

3 (2) Specific goals for ensuring the timeliness
 4 and quality of health care delivery in rural commu-
 5 nities that are reliant on contract and fee basis care,
 6 developed in conjunction with the Director of the Of-
 7 fice of Quality and Performance of the Department.

8 (3) Specific goals for the expansion and imple-
 9 mentation of telemedicine services in rural areas, de-
 10 veloped in conjunction with the Director of the Of-
 11 fice of Care Coordination Services of the Depart-
 12 ment.

13 (4) Incremental milestones describing specific
 14 actions to be taken for the purpose of achieving the
 15 goals specified under paragraphs (1) through (3).

16 **SEC. 5. ENHANCEMENT OF VET CENTERS TO MEET NEEDS**
 17 **OF VETERANS OF OPERATION IRAQI FREE-**
 18 **DOM AND OPERATION ENDURING FREEDOM.**

19 (a) VOLUNTEER COUNSELORS.—Subsection (c) of
 20 section 1712A of title 38, United States Code, is amend-
 21 ed—

22 (1) by striking “The Under Secretary” and in-
 23 serting “(1) The Under Secretary”;

1 (2) in paragraph (1), as designated by para-
 2 graph (1), by striking “, and, in carrying” and all
 3 that follows through “screening activities”; and

4 (3) by adding at the end the following new
 5 paragraphs:

6 “(2) In carrying out this section, the Under Secretary
 7 may utilize the services of the following:

8 “(A) Paraprofessionals, individuals who are vol-
 9 unteers working without compensation, and individ-
 10 uals who are veteran-students (as described in sec-
 11 tion 3485 of this title) in initial intake and screening
 12 activities.

13 “(B) Eligible volunteer counselors in the provi-
 14 sion of counseling and related mental health serv-
 15 ices.

16 “(3) For purposes of this subsection, an eligible vol-
 17 unteer counselor is an individual—

18 “(A) who—

19 “(i) provides counseling services without
 20 compensation at a center;

21 “(ii) is a licensed psychologist or social
 22 worker;

23 “(iii) has never been named in a mal-
 24 practice action; and

1 “(iv) has never had, and has no pending,
2 disciplinary action taken with respect to any li-
3 cense of the individual in any State; or

4 “(B) who is otherwise credentialed and privi-
5 leged to perform counseling services by the Sec-
6 retary.

7 “(4) Not later than one year after the date of the
8 enactment of the Rural Veterans Health Care Access and
9 Quality Act of 2009, the Secretary shall establish expe-
10 dited credentialing and privileging procedures for eligible
11 volunteer counselors for the provision of counseling and
12 related mental health services under this section.

13 “(5) For each application received by the Secretary
14 for credentialing and privileging of an eligible volunteer
15 counselor under this subsection, the Secretary shall com-
16 plete the credentialing and privileging process for such vol-
17 unteer not later than 60 days after receiving such applica-
18 tion.”.

19 (b) OUTREACH.—Subsection (e) of such section is
20 amended—

21 (1) by striking “The Secretary” and inserting
22 “(1) The Secretary”; and

23 (2) by adding at the end the following new
24 paragraph:

1 “(2) Each center shall develop an outreach plan to
 2 ensure that the community served by the center is aware
 3 of the services offered by the center.”.

4 **SEC. 6. TELECONSULTATION AND TELEMEDICINE.**

5 (a) TELECONSULTATION AND TELERETINAL IMAG-
 6 ING.—

7 (1) IN GENERAL.—Subchapter I of chapter 17
 8 of title 38, United States Code, is amended by add-
 9 ing at the end the following new section:

10 **“§ 1709. Teleconsultation and teleretinal imaging**

11 “(a) TELECONSULTATION.—(1) The Secretary shall
 12 carry out a program of teleconsultation for the provision
 13 of remote mental health and traumatic brain injury as-
 14 sessments in facilities of the Department that are not oth-
 15 erwise able to provide such assessments without con-
 16 tracting with third party providers or reimbursing pro-
 17 viders through a fee basis system.

18 “(2) The Secretary shall, in consultation with appro-
 19 priate professional societies, promulgate technical and
 20 clinical care standards for the use of teleconsultation serv-
 21 ices within facilities of the Department.

22 “(b) TELERETINAL IMAGING.—(1) The Secretary
 23 shall carry out a program of teleretinal imaging in each
 24 Veterans Integrated Services Network (VISN).

1 “(2) In each fiscal year beginning with fiscal year
 2 2010 and ending with fiscal year 2015, the Secretary shall
 3 increase the number of patients enrolled in each teleretinal
 4 imaging program under paragraph (1) by not less than
 5 five percent from the number of patients enrolled in each
 6 respective program in the previous fiscal year.

7 “(c) DEFINITIONS.—In this section:

8 “(1) The term ‘teleconsultation’ means the use
 9 by a health care specialist of telecommunications to
 10 assist another health care provider in rendering a di-
 11 agnosis or treatment.

12 “(2) The term ‘teleretinal imaging’ means the
 13 use by a health care specialist of telecommuni-
 14 cations, digital retinal imaging, and remote image
 15 interpretation to provide eye care.”.

16 “(2) CLERICAL AMENDMENT.—The table of sec-
 17 tions at the beginning of chapter 17 of such title is
 18 amended by inserting after the item related to sec-
 19 tion 1708 the following new item:

“1709. Teleconsultation and teleretinal imaging.”.

20 “(b) TRAINING IN TELEMEDICINE.—The Secretary of
 21 Veterans Affairs shall require each Department of Vet-
 22 erans Affairs facility that is involved in the training of
 23 medical residents to work with each university concerned
 24 to develop an elective rotation in telemedicine for such
 25 residents.

1 (c) ENHANCEMENT OF VERA.—

2 (1) INCENTIVES FOR PROVISION OF TELECON-
3 SULTATION, TELERETINAL IMAGING, TELEMEDICINE,
4 AND TELEHEALTH SERVICES.—The Secretary of
5 Veterans Affairs shall modify the Veterans Equitable
6 Resource Allocation system to provide incentives for
7 the utilization of teleconsultation, teleretinal imag-
8 ing, telemedicine, and telehealth coordination serv-
9 ices.

10 (2) INCLUSION OF TELEMEDICINE VISITS IN
11 WORKLOAD REPORTING.—The Secretary shall mod-
12 ify the Veterans Equitable Resource Allocation sys-
13 tem to require the inclusion of all telemedicine visits
14 in the calculation of facility workload.

15 (d) DEFINITIONS.—In this section:

16 (1) The terms “teleconsultation” and “teleret-
17 inal imaging” have the meanings given such terms
18 in section 1720G of title 38, United States Code, as
19 added by subsection (a).

20 (2) The term “telemedicine” means the use by
21 a health care provider of telecommunications to as-
22 sist in the diagnosis or treatment of a patient’s med-
23 ical condition.

24 (3) The term “telehealth” means the use of
25 telecommunications to collect patient data remotely

1 and send data to a monitoring station for interpreta-
 2 tion.

3 **SEC. 7. OVERSIGHT OF CONTRACT AND FEE BASIS CARE.**

4 (a) IN GENERAL.—Subchapter I of chapter 17 of title
 5 38, United States Code, is amended by inserting after sec-
 6 tion 1703 the following new section:

7 **“§ 1703A. Oversight of contract and fee basis care**

8 “(a) CONSOLIDATION OF COMMUNITY BASED OUT-
 9 PATIENT CLINIC CONTRACTING.—For each Veterans Inte-
 10 grated Services Network (VISN), the Secretary shall, act-
 11 ing through the Under Secretary for Health and to the
 12 maximum extent practicable, negotiate with each party
 13 that has contracts to provide services at more than one
 14 community based outpatient clinic in such Network to con-
 15 solidate such contracts.

16 “(b) RURAL OUTREACH COORDINATORS.—The Sec-
 17 retary shall designate a rural outreach coordinator at each
 18 Department community based outpatient clinic at which
 19 not less than 50 percent of the veterans enrolled at such
 20 clinic reside in a highly rural area. The coordinator at a
 21 clinic shall be responsible for coordinating care and col-
 22 laborating with community contract and fee basis pro-
 23 viders with respect to the clinic.

24 “(c) INCENTIVES TO OBTAIN ACCREDITATION OF
 25 MEDICAL PRACTICE.—(1) The Secretary shall adjust the

1 fee basis compensation of providers of health care services
2 under the Department to encourage such providers to ob-
3 tain accreditation of their medical practice from recog-
4 nized accrediting entities.

5 “(2) In making adjustments under paragraph (1), the
6 Secretary shall consider the increased overhead costs of
7 accreditation described in paragraph (1) and the costs of
8 achieving and maintaining such accreditation.

9 “(d) INCENTIVES FOR PARTICIPATION IN PEER RE-
10 VIEW.—(1) The Secretary shall adjust the fee basis com-
11 pensation of providers of health care services under the
12 Department that do not provide such services as part of
13 a medical practice accredited by a recognized accrediting
14 entity to encourage such providers to participate in peer
15 review under subsection (e).

16 “(2) The Secretary shall provide incentives under
17 paragraph (1) to a provider of health care services under
18 the Department in an amount equal to the amount the
19 Secretary would provide to such provider under subsection
20 (c) if such provider provided such services as part of a
21 medical practice accredited by a recognized accrediting en-
22 tity.

23 “(e) PEER REVIEW.—(1) The Secretary shall provide
24 for the voluntary peer review of providers of health care
25 services under the Department who provide such services

1 on a fee basis as part of a medical practice that is not
2 accredited by a recognized accrediting entity.

3 “(2) Each year, beginning with the first fiscal year
4 beginning after the date of the enactment of this section,
5 the Chief Quality and Performance Officer in each Vet-
6 erans Integrated Services Network (VISN) shall select a
7 sample of patient records from each participating provider
8 in the Officer’s Veterans Integrated Services Network to
9 be peer reviewed by a facility designated under paragraph
10 (3).

11 “(3) The Chief Quality and Performance Officer in
12 each Veterans Integrated Services Network shall designate
13 Department facilities in such network for the peer review
14 of patient records submitted under this subsection.

15 “(4) Each year, beginning with the first fiscal year
16 beginning after the date of the enactment of this section,
17 each provider who elects to participate in the program
18 shall submit the patient records selected under paragraph
19 (2) to a facility selected under paragraph (3) to be peer
20 reviewed by such facility.

21 “(5) Each Department facility designated under
22 paragraph (3) that receives patient records under para-
23 graph (4) shall—

1 “(A) peer review such records in accordance
2 with policies and procedures established by the Sec-
3 retary;

4 “(B) ensure that peer reviews are evaluated by
5 the Peer Review Committee; and

6 “(C) develop a mechanism for notifying the
7 Under Secretary for Health of problems identified
8 through such peer review.

9 “(6) The Under Secretary for Health shall develop
10 a mechanism by which the use of fee basis providers of
11 health care are terminated when quality of care concerns
12 are identified.

13 “(7) The Chief Quality and Performance Officer in
14 each Veterans Integrated Services Network shall be re-
15 sponsible for the oversight of the program in that net-
16 work.”.

17 (b) CLERICAL AMENDMENT.—The table of sections
18 at the beginning of chapter 17 of such title is amended
19 by inserting after the item related to section 1703 the fol-
20 lowing new item:

 “1703A. Oversight of contract and fee basis care.”.

21 **SEC. 8. TRAVEL BENEFITS FOR BENEFICIARIES IN REMOTE**
22 **LOCATIONS.**

23 (a) COVERAGE OF COST OF TRANSPORTATION BY
24 AIR.—

1 (1) IN GENERAL.—Subsection (a) of section
2 111 of title 38, United States Code, is amended by
3 inserting after the first sentence the following new
4 sentence: “Actual necessary expense of travel in-
5 cludes the reasonable costs of airfare if travel by air
6 is the only practical way to reach a Department fa-
7 cility.”.

8 (2) ELIMINATION OF LIMITATION BASED ON
9 MAXIMUM ANNUAL RATE OF PENSION.—Subsection
10 (b)(1)(D)(i) of such section is amended by inserting
11 “who is not traveling by air and” before “whose an-
12 nual”.

13 (3) DETERMINATION OF PRACTICALITY.—Sub-
14 section (b) of such section is amended by adding at
15 the end the following new paragraph:

16 “(4) In determining for purposes of subsection (a)
17 whether travel by air is the only practical way for a vet-
18 eran to reach a Department facility, the Secretary shall
19 consider the medical condition of the veteran and any
20 other impediments to the use of ground transportation by
21 the veteran.”.

22 (b) MILEAGE REIMBURSEMENT RATE FOR TRAVEL
23 BY AIR.—Subsection (g)(1) of such section is amended by
24 inserting after “is available)” the following: “or the mile-

1 age reimbursement rate for airplanes if travel by airplane
 2 is the only practical method of travel”.

3 **SEC. 9. PILOT PROGRAM ON INCENTIVES FOR PHYSICIANS**
 4 **WHO ASSUME INPATIENT RESPONSIBILITIES**
 5 **AT COMMUNITY HOSPITALS IN HEALTH PRO-**
 6 **FESSIONAL SHORTAGE AREAS.**

7 (a) PILOT PROGRAM REQUIRED.—The Secretary of
 8 Veterans Affairs shall carry out a pilot program to assess
 9 the feasibility and advisability of each of the following:

10 (1) The provision of financial incentives to eligi-
 11 ble physicians who obtain and maintain inpatient
 12 privileges at community hospitals in health profes-
 13 sional shortage areas in order to facilitate the provi-
 14 sion by such physicians of primary care and mental
 15 health services to veterans at such hospitals.

16 (2) The collection of payments from third-party
 17 providers for care provided by eligible physicians to
 18 non-veterans while discharging inpatient responsibil-
 19 ities at community hospitals in the course of exer-
 20 cising the privileges described in paragraph (1).

21 (b) ELIGIBLE PHYSICIANS.—For purposes of this
 22 section, an eligible physician is a primary care or mental
 23 health physician employed by the Department of Veterans
 24 Affairs on a full-time basis.

1 (c) DURATION OF PROGRAM.—The pilot program
2 shall be carried out during the three-year period beginning
3 on the date of the commencement of the pilot program.

4 (d) LOCATIONS.—

5 (1) IN GENERAL.—The pilot program shall be
6 carried out at not less than five community hospitals
7 in each of not less than two Veterans Integrated
8 Services Networks (VISNs). The hospitals shall be
9 selected by the Secretary utilizing the results of the
10 survey required under subsection (e).

11 (2) QUALIFYING COMMUNITY HOSPITALS.—A
12 community hospital may be selected by the Secretary
13 as a location for the pilot program if—

14 (A) the hospital is located in a health pro-
15 fessional shortage area; and

16 (B) the number of eligible physicians will-
17 ing to assume inpatient responsibilities at the
18 hospital (as determined utilizing the result of
19 the survey) is sufficient for purposes of the
20 pilot program.

21 (e) SURVEY OF PHYSICIAN INTEREST IN PARTICIPA-
22 TION.—

23 (1) IN GENERAL.—Not later than 120 days
24 after the date of the enactment of this Act, the Sec-
25 retary of Veterans Affairs shall conduct a survey of

1 eligible physicians to determine the extent of the in-
2 terest of such physicians in participating in the pilot
3 program.

4 (2) ELEMENTS.—The survey shall disclose the
5 type, amount, and nature of the financial incentives
6 to be provided under subsection (h) to physicians
7 participating in the pilot program.

8 (f) PHYSICIAN PARTICIPATION.—

9 (1) IN GENERAL.—The Secretary shall select
10 physicians for participation in the pilot program
11 from among eligible physicians who—

12 (A) express interest in participating in the
13 pilot program in the survey conducted under
14 subsection (e);

15 (B) are in good standing with the Depart-
16 ment; and

17 (C) primarily have clinical responsibilities
18 with the Department.

19 (2) VOLUNTARY PARTICIPATION.—Participation
20 in the pilot program shall be voluntary. Nothing in
21 this section shall be construed to require a physician
22 working for the Department to assume inpatient re-
23 sponsibilities at a community hospital unless other-
24 wise required as a term or condition of employment
25 with the Department.

1 (g) ASSUMPTION OF INPATIENT PHYSICIAN RESPON-
2 SIBILITIES.—

3 (1) IN GENERAL.—Each eligible physician se-
4 lected for participation in the pilot program shall as-
5 sume and maintain inpatient responsibilities, includ-
6 ing inpatient responsibilities with respect to non-vet-
7 erans, at one or more community hospitals selected
8 by the Secretary for participation in the pilot pro-
9 gram under subsection (d).

10 (2) COVERAGE UNDER FEDERAL TORT CLAIMS
11 ACT.—If an eligible physician participating in the
12 pilot program carries out on-call responsibilities at a
13 community hospital where privileges to practice at
14 such hospital are conditioned upon the provision of
15 services to individuals who are not veterans while the
16 physician is on call for such hospital, the provision
17 of such services by the physician shall be considered
18 an action within the scope fo the physician's office
19 or employment for purposes of chapter 171 of title
20 28, United States Code (commonly referred to as
21 the "Federal Tort Claims Act").

22 (h) COMPENSATION.—

23 (1) IN GENERAL.—The Secretary shall provide
24 each eligible physician participating in the pilot pro-
25 gram with such compensation (including pay and

1 other appropriate compensation) as the Secretary
2 considers appropriate to compensate such physician
3 for the discharge of any inpatient responsibilities by
4 such physician at a community hospital for which
5 such physician would not otherwise be compensated
6 by the Department as a full-time employee of the
7 Department.

8 (2) WRITTEN AGREEMENT.—The amount of
9 any compensation to be provided a physician under
10 the pilot program shall be specified in a written
11 agreement entered into by the Secretary and the
12 physician for purposes of the pilot program.

13 (3) TREATMENT OF COMPENSATION.—The Sec-
14 retary shall consult with the Director of the Office
15 of Personnel Management on the inclusion of a pro-
16 vision in the written agreement required under para-
17 graph (2) that describes the treatment under Fed-
18 eral law of any compensation provided a physician
19 under the pilot program, including treatment for
20 purposes of retirement under the civil service laws.

21 (i) COLLECTIONS FROM THIRD PARTIES.—In car-
22 rying out the pilot program for the purpose described in
23 subsection (a)(2), the Secretary shall implement a variety
24 and range of requirements and mechanisms for the collec-
25 tion from third-party payors of amounts to reimburse the

1 Department for health care services provided to non-vet-
2 erans under the pilot program by eligible physicians dis-
3 charging inpatient responsibilities under the pilot pro-
4 gram.

5 (j) INPATIENT RESPONSIBILITIES DEFINED.—In this
6 section, the term “inpatient responsibilities” means on-call
7 responsibilities customarily required of a physician by
8 community hospital as a condition of granting privileges
9 to the physician to practice in the hospital.

10 (k) REPORT.—Not later than one year after the date
11 of the enactment of this Act and annually thereafter, the
12 Secretary shall submit to Congress a report on the pilot
13 program, including the following:

14 (1) The findings of the Secretary with respect
15 to the pilot program.

16 (2) The number of veterans and non-veterans
17 provided inpatient care by physicians participating
18 in the pilot program.

19 (3) The amounts collected and payable under
20 subsection (i).

21 (l) HEALTH PROFESSIONAL SHORTAGE AREA DE-
22 FINED.—In this section, the term “health professional
23 shortage area” has the meaning given the term in section

1 332(a) of the Public Health Service Act (42 U.S.C.
2 254e(a)).

○